(3)

No. 06-909

IN THE

SUPREME COURT OF THE UNITED STATES

PAMELA SMITH Petitioner

v.

DON COCHRAN Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

SUPPLEMENTAL BRIEF

Pamela Smith
12139 E. 38th Street
Tulsa, Oklahoma 74146
(918) 660-2838
PRO SE

COMES NOW Pamela Smith, Petitioner, who files her Supplemental Brief, calling attention to case and evidence, some of which was not known or available at the time the Petition for a Writ of Certiorari was filed.

I. STATEMENT OF FACTS

A. Oklahoma Courts, State and Federal, deny Petitioner an effective remedy. Petitioner brought suit in the United States District Court for the Northern District of Oklahoma for restitution and repair of the injuries, duress and infliction of emotional stress sustained by her as a result of the actions and indications of the agents of the State of Oklahoma, under color of law and under color of authority.

Petitioner brought suit in a timely manner with respect to personal safety, the revelation of critical information held in silent to evade accountability, and the viability of resorting to the courts. The United States District Court for the Northern District of Oklahoma allegedly tainted the jury trial by intimidating Petitioner's counsel into submission to delete "RAPE" as a viable Count and assisted the Defendant's counsel, Attorney General for the State of Oklahoma, instead of being an "impartial trier of facts."

In doing so, the Court (Judge Cook) and the State furthered a longstanding injustice that was racially discriminatory in intent and effect. The United States Court of Appeals for the Tenth Circuit originally affirmed Petitioner request.

II. LEGAL STANDARD

Courts accepted well-pled allegations in the complaint as true and construes them most favorably to the Plaintiff. See Gonzales v. City of Castle, 307 F.3d 1258, 1261 (10th Cir. 2002).

From commencement of Petitioner's relentless effort to

obtain justice to the filing of this Writ, Pamela Smith had no way of knowing of the covert conflict of interest exemplified by the 10th Circuit's original Order of its second denial of due process to Petitioner, due to the Oklahoma Governor Brad Henry's first cousin, 10th Circuit Justice Robert Henry's inherent conflict of interest. Both Henrys were born, raised and continue their domiciles in Shawnee, Oklahoma. An alleged quid pro quo exists to deprive Petitioner her readiness or reparations at the State of Oklahoma's expense. (See Exhibit 1.)

Exhibit 2, letter from attorneys Frasier, Frasier & Hickman was a **bit** intimidating. Petitioner paid $10,000 to file appeal to the 10th Circuit Court of Appeals and if she didn't settle she could be sued. Petitioner was not aware of settlement offer until after the fact. (See Exhibit 2.)

Petitioner also meets the reliability requirements to the issues before the Court of Daubert v. Merrill Dow Pharm., Inc., 509 U.S. 579 (1993) which Petitioner asserts that her testimony was hampered at trial by Judge Cook which impaired the jury from the facts and evidence in the case to aid an impartial trier of fact in resolving any factual dispute, as is required by Daubert.

Petitioner further asserts an argument with the language from Okla. Statute, Title 74, §8000.1.4 referring to a "**conspiracy of silence**" that "served the dominant interests of the state" after Petitioner contracted all law enforcement agencies, met the stringent requirements for a Grand Jury, begging assistance from Governor Henry, an unknown interested party and state actor in the **"silent coalition"** alleged.

Exhibit 3 is a report from Stephen Hoyer, Ph.D. who treated Petitioner and was an expert witness on her list but was never called to the courtroom, only by telephone, and by the Investigator, Eddie Griffin, who asked if he was a real doctor and if his records were real. (See Exhibit 3.)

III. FALSE CLAIM OF SERVICE

A.K.A., A Felony in State Court

The Oklahoma Attorney General's Office did, with malice and forethought, intentionally violate Rule 29, #3 and #5, i.e.

#3 "...when a party is not represented by counsel, service shall be made on the party, personally, by mail, or by commercial carrier..."

#5 "Proof of service, when required by these Rules shall accompany the document when it is presented to the clerk for filing and shall be separate from it."

Petitioner pro se and without a computer or access to Pacer, did only find out that the Oklahoma Attorney General filed a Waiver on Friday, February 2, 2007, before the Monday, February 5, 2007 Court deadline for any Response or Amicus Briefs, to intentionally thwart Petitioner's right to due process and equal access to the Court. Moreover, Petitioner found out about Waiver from U.S. Supreme Court. Then a copy was requested by Petitioner by calling Assistant Attorney Angela Berlin Martin and one was faxed on 2/8/07. As of this date, February 14, 2007, Petitioner has not received copy of Waiver through mail, only by fax, as confirmed by Exhibit 4.

Petitioner, along with her brother, was present in December 2003 at Petitioner's attorney's office. Petitioner was told the State offered $60,000; $30,000 to Petitioner and $30,000 to Petitioner's attorney. Petitioner declined the offer and was harassed at her home the next day by phone calls from the attorney and her staff. Petitioner told Attorney Bridge Riley that she was not interested. Petitioner was told if she didn't take the offer she would end up with a million dollar empty judgment, that the Defendant would file bankruptcy. Petitioner stood her ground and went to Court on January 6, 2004 and the attorney also said she needed the money to pay her past rent and that was why they wanted to settle the case.

Wherefore, all premises considered, Petitioner prays her Writ be accepted for the reasons set forth in her original Writ and the extenuating circumstances offered as PROOF in this Supplemental Brief.

Respectfully submitted,

Pamela Smith, Pro Se

AFFIDAVIT

State of Oklahoma }
} ss.
County of Tulsa }

I swear/affirm the foregoing is true and correct to the best of my knowledge.

Pamela Smith

Pamela Smith appeared before me this 14th day of February, 2007 and signed this Affidavit under penalty of perjury.

Notary Public

1325 NE 55th Street
Oklahoma City, Ok 73111
January 18, 2007

Ref: Smith v. Cochran
No. 06-909

Exhibit 1

Supreme Court of The United States
Office Of The Clerk
Washington, DC 20543-0001

To The Justices of the Supreme Court

Sirs/Madam:

We received a copy of Ms. Smith's Writ to the Supreme Court, and we noticed in it, information that early on in this situation, she wrote Governor Henry several times about her rape problem with DPS/DOC, and was ignored. We also understand that she lost her case at several levels within our court system, including the 10th Circuit Court of Appeals.

Something very interesting and troubling about this case has come to our attention which should cause this court to question the integrity of the rulings in this case, and that is, how Judge Cook helped the defense attorney who works for the State Attorney General's Office, practice law during the trial.

Now look at the connection between Governor Henry and the court system. Governor Henry's first cousin is a Judge at the 10th Circuit Court, and he has been since 1994. This troubles us because we know judges share information about their cases with one another and it does not surprise us that the evidence in Ms. Smith's case was shared for the purpose of denying her justice and any relief. In fact the June 28, 2006,

order and judgment from the 10th Circuit is not binding precedent except under the doctrines of law of the case. Keep in mind the Governor of the state has a special interest in the outcome of this case.

The circumstances of this case brings to our attention, more suspicion in its highest degree, that facts about this case were discussed with Judge Henry and we believe and the facts suggest, they, (Governor Henry and Judge Henry) determined it would be cost effective to just deny this woman justice and relief no matter how you twist the evidence, make sure she loses her case.

Then again, we question how the favorable evidence in the case can suddenly change when the court learns Ms. Smith is black. Prior to being introduced to the court, it seems to us, prior rulings were made for a white woman, but when the court learned this was a black woman's case, every prior ruling by the Northern District and the 10th Circuit Court, which initially favored Ms. Smith, drastically changed. Furthermore, we personally know of several cases here within the Federal courts, where black people have suffered the same fate, which is, denial of any relief or justice for them when the evidence supports otherwise.

Certainly, there is an inference of impropriety here, and for justice to prevail for this woman and others similarly situated as herself, the Supreme Court of the land should reverse what the lower courts have done in this case, and provide some assistance for this woman and others, as well as, provide some definite guidance, some direction for the courts, which should correct the obvious injustices which permeates our Oklahoma society.

Since we have a higher law than man's law, we should hear from a higher source who is Jesus Christ, who has all power

and authority, who said in Luke the 11th chapter and the 42 verse, "But woe unto you, Pharisees! For ye tithe mint and rue and all manner of herbs, and pass over judgment (justice) and the love of God: these ought ye to have done, and not to leave the other undone."
Moreover, the Bible continues, "...you have omitted the weightier matters of the law, judgment, mercy, and faith: these ought ye to have done, and not to leave the other undone." (Matthew 23:23)

What we are asking, is please carefully consider this word to obey it, and if people would just learn to treat one another as they want to be treated, your jobs would be easier and there would be much more love and peace in our America. We doubt very seriously that any of you would want someone to rape your daughters and nothing be done about it.

The Preamble to our United States Constitution in part says, "WE, FOR, AND BY THE PEOPLE, means to us, all people in America, not just the elite, the people of Caucasian persuasion, or people of influence and power, but all people which also includes Black people, ALL having a right to liberty, justice and the pursuit of happiness.

Sincerely,
s/_____
James Carpenter, Former Oklahoma Highway Patrol Trooper

Clarence Powers
s/_____
Former Oklahoma City Police Officer

cc: Oklahoma NAACP, Regional and National
Attachment: Governor's Spotlight: Judge Henry swearing in Governor Henry

Judge Robert Henry To Address SOSU Graduates On May 13

Press Release Date: 04-06-2006

Judge Robert H. Henry of the United States Court of Appeals for the Tenth Circuit will deliver commencement remarks at Southeastern Oklahoma State University on Saturday, May 13.

Weather permitting, commencement will be held in one ceremony at 9 a.m. at Paul Laird Field. A reception honoring graduates and their families will be held in the Visual and Performing Arts Center from 11 :00 a.m. to 1 :00 p.m.

A native of Shawnee, Oklahoma, Judge Henry was appointed to the United States Court of Appeals for the Tenth Circuit in 1994. He has served in all three branches of the government. From 1976 to 1986, he was a member of the Oklahoma House of Representatives, where he chaired the Judiciary and Education Committees, as well as the Majority Caucus. He was elected in 1986 and later re-elected in 1990 without opposition to the office of Attorney General of Oklahoma. He has engaged in the private practice of law, and from 1991 to 1994, he taught and served as Dean and Professor of Law at the Oklahoma City University School of Law.

In 2005, Chief Justice William H. Rehnquist appointed Judge Henry as Chair of the Judicial Conference Committee on International Judicial Relations. He previously served on the Judicial Conference Committee on Codes of Conduct. Judge Henry currently sits on the Advisory Board of the Judicial Outreach Program of the American Society of International Law, the Board of Directors for the VERA Institute of Justice, and the Board of Advisors for the National State Attorneys General Program at Columbia University. He is also a Life Member of the National Conference of Commissioners on Uniform State Laws, representing Oklahoma since 1982.

Judge Henry has received numerous human rights, humanitarian, and environmental awards in Oklahoma, and most recently was awarded the University of Oklahoma College of Arts and Sciences Distinguished Alumni Award. In the event of inclement weather, commencement will be held in the Bloomer Sullivan Gymnasium.

Since seating is limited in the gymnasium, there will be two ceremonies by degrees:

BEST AVAILABLE COPY

Governor's Spotlight

With First Lady Kim Henry and daughter Laynie by his side, Gov. Henry takes the oath of office from his cousin, Judge Robert Henry.

FRASIER, FRASIER & HICKMAN, LLP
ATTORNEYS AT LAW

THOMAS DEE FRASIER, P.C. (1924-2001)
JAMES E. FRASIER, P.C.
STEVEN c. HICKMAN
JOHN W. FLIPPO
EVERETT c. Bennett, JR.
J. L. FRANKS
FRANK W. FRASIER
GEORGE M. MILES
MICHAEL A. SHIFLET
TOMy W. MCDONALD
LAURIE PHILLIPS

September 14, 2004

Exhibit
2

Pamela J. Smith
12139 East 38th Street
Tulsa, Oklahoma 74146

Re: Smith v. State of Okla. ex reI. DPS, et al.
Tenth Circuit, 04-5114
Settlement offer

Dear Pam,

As we discussed today, a mediation conference was held by telephone last Friday, with Steve Hickman participating on your behalf. The offer of settlement that the State made as a result of that conference was as follows: the State would agree to waive their costs to date, which are about $2,500.00; the State and Cochran would. make some sort of agreement with you to not sue you for malicious prosecution or anything else arising out of this case; you to not sue you for malicious prosecution or anything else arising out of this case; you would dismiss your appeal; you would get back what remains of your retainer at this point, and the state may reimburse some of the transcription costs so far. You advised us to proceed with the appeal, which we will certainly do.

You also need to know that Mr. Hickman has come to the following conclusions about your case, having now had an opportunity to review the motion for new trial and discuss it, and this appeal, with the defense counsel in this case.

Steve first notes that the Tenth Circuit affirms approximately 90% of the appeals that are taken. Given those odds, and the specifics of this case, which he believes makes your appeal even tougher than average, he believes it is very unlikely that the Tenth Circuit will reverse the trial court. That is so simply because of the tendencies of the federal judges at the 10th Circuit, and not because the case is undeserving of reversal. Regardless, we will of course follow your direction and do the best we can as we proceed.

Steve or I will of course keep you informed of further developments.

Sincerely,

s/ _____
Michael A. Shiflet

1700 S. W. BOULEVARD / PO BOX 799 / TULSA, OKLAHOMA / 74101-0799
(918) 584-4724 / FAX # (918) 583-5637 / 1-800-522-4049 / E-mail: frasier@tulsa.com

On December 7, 2004 at approximately 11 :50 A.M. I received a telephone call from a man named Eddie Griffin. He identified himself as an investigator with the Tulsa County District Attorney's office assigned to the Grand Jury investigating charges brought by one of my former patients, Pamela Smith. He asked me about the authenticity of documents that had been submitted to the Grand Jury by Ms. Smith. These documents included several progress notes from my sessions with Ms. Smith as well as a summary of her treatment over the entire period of time she was my patient. I informed him that the documents were copies of my notes that I wrote at the time of those sessions. The notes were not signed by me or by may (sic) supervisor at that time, Dr. Terry Vinsant. I told Mr. Griffin that the reason the notes were not signed was because they were only copies. I also told him that the original documents, which were signed, were in Ms. Smith's Department of Corrections records. Mr. Griffin told me that he was satisfied as to the authenticity of the documents and that he would enter them into evidence.

S/_____ 12-9-04_____

StephenHoyer, Ph.D.
801 Spruce
Frontenac KS 66763
620-232-1962

Date

Exhibit
3

ATTORNEY GENERAL'S OFFICE
FACSIMILE TRANSMITTAL COVER SHEET

Litigation Division
313 N.E. 21st Street, Oklahoma City, OK 73105
(405) 521-3921 Fax (405) 521-6518

DATE: 8-8-07

To: Pamela Smith Fax Number: 918-660-2838

From: Angela Martin

Subject: Smith v. Cochran Waiver

Number of Pages (Including cover sheet) 2

Message/Comments: ☐ Urgent ☐ For Review ☐ Please Reply

Exhibit
4

IF FACSIMILE TRANSMISSION IS NOT CLEAR OR DOES NOT TRANSMIT COMPLETELY, PLEASE CALL (405) 521-3921

THIS FACSIMILE CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THE FACSIMILE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION OR COPYING OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

WAIVER

Supreme Court of the United States

No. 06-909

Pamela Smith (Petitioner) v. Don Cochran (Respondent)

I DO NOT INTEND TO FILE A RESPONSE to the petition for a writ of certiorari unless one is requested by the Court.

Please check one of the following boxes:

☒ Please enter my appearance as Counsel of Record for all respondents.

☐ There are multiple respondents, and I do not represent all respondents. Please enter my appearance as Counsel of Record for the following respondent(s):

I certify that I am a member of the Bar of the Supreme Court of the United States. (Please explain name change since bar admission.)

Signature: Kimberly Jones

Date: February 2, 2007

(Type or print) Name: Kimberly L. Jones, Assistant Attorney General
☐ Mr. ☒ Ms. ☐ Mrs. ☐ Miss

Firm: Office of the Oklahoma Attorney General

Address: 313 N.E. 21st Street

City & State: Oklahoma City, OK Zip: 73105

Phone: (405) 521-4274

SEND A COPY OF THIS FORM TO PETITIONER'S COUNSEL OR TO PETITIONER IF *PRO SE*. PLEASE INDICATE BELOW THE NAME(S) OF THE RECIPIENT(S) OF A COPY OF THIS FORM. NO ADDITIONAL CERTIFICATE OF SERVICE IS REQUIRED.

Cc: Pamela Smith, 12139 E. 36th Street
Tulsa, Oklahoma 74146
PRO SE